

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RENE URENA GONZALEZ,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

1:05-CR-250-WSD-JFK-5

1:17-cv-3275-WSD

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Janet F. King’s Final Report and Recommendation [318] (“Final R&R”), recommending that Rene Urena Gonzalez’s (“Movant”) 28 U.S.C. § 2255 motion [315] (the “Motion”) be dismissed and that a certificate of appealability be denied. Also before the Court is the Magistrate Judge’s recommendation to deny as moot Movant’s Request for Judicial Notice [316].

On June 22, 2009, the Court denied Movant’s original § 2255 motion challenging his July 10, 2006, conviction for conspiring to manufacture at least 500 grams of a mixture or substance containing a detectable amount of methamphetamine. (June 22, 2016 Order [231] at 1, 30). On August 28, 2017,

Movant filed the Motion at issue here—a successive § 2255 motion. On September 19, 2017, the Magistrate Judge issued her Final R&R recommending dismissal of Movant’s Motion. Movant has not filed objections to the Final R&R, and thus the Court reviews it for plain error. See United States v. Slay, 714 F.2d 1093 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984).

The Magistrate Judge found that because Movant did not first receive permission from the Eleventh Circuit Court of Appeals to file a successive § 2255 motion, the District Court did not have authority to consider the Motion. (Final R&R at 1). See 28 U.S.C. § 2255(h); Farris v. United States, 333 F. 3d 1211, 1216 (11th Cir. 2003). The Magistrate Judge also found that a “certificate of appealability is not warranted because it is not debatable that Movant must obtain permission from the Eleventh Circuit Court of Appeals before filing another § 2255 motion in this Court.” See Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 11.

The Court finds no plain error in the Magistrate Judge’s findings or recommendation.

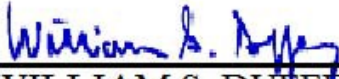
For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King’s Final Report and Recommendation [318] is **ADOPTED**.

IT IS FURTHER ORDERED that Movant's successive § 2255 motion [315] is **DISMISSED** and that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that Movant's Request for Judicial Notice [316] is **DENIED AS MOOT**.

SO ORDERED this 16th day of October, 2017.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE